

TEXT OF REGULATIONS

CALIFORNIA CODE OF REGULATIONS

Title 4, Division 15, Article 1.6

Charter School Revolving Loan Fund Program

Section 10170.16. Purpose.

This Article implements the California School Finance Authority's administration of the Charter School Revolving Loan Fund Program (Education Code section 41365) which provides loans for charter schools.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

Section 10170.17. Definitions.

For the purposes of this article, the following words and phrases shall have the meaning as described below:

- (a) "Applicant" shall mean the Charter School or Chartering Authority applying on behalf of a Charter School for a loan under this article.
- (b) "Application" shall mean a completed Charter School Revolving Loan Fund Program Application (CSFA 14-01; dated January 8, 2014), incorporated herein by reference, as defined and developed by the Authority, and all other documents required to be submitted to the Authority.
- (c) "Authority" shall mean the California School Finance Authority.
- (d) "CDS Code" shall mean the County-District-School identifier assigned to all California charter schools.
- (e) "Charter School" shall mean a school established and operating pursuant to the Charter Schools Act of 1992 (Education Code Section 47600, et seq.)
- (f) "Charter School Revolving Loan Fund" shall mean the designated fund within the State Treasury established pursuant to Education Code section 41365 for the purpose of disbursing Program loans to Charter Schools.
- (g) "Chartering Authority" shall mean the school district, county board of education, or State Board of Education that approved a Charter School's petition to become a Charter School pursuant to Education Code section 47605.
- (h) "Incorporated Charter School" shall mean a charter school operated by a corporate entity, such as a non-profit corporation, limited liability corporation, or partnership.
- (i) "Loan Recipient" shall mean the Charter School or Chartering Authority that has applied on behalf of a Charter School for which the Authority has approved and issued a loan through the Program.
- (j) "Pooled Money Investment Account" shall mean the designated account within the State that is managed by the State Treasurer's Office and governed by the Pooled Money Investment Board to invest taxpayers' money and manage the State's cash flow. The yield on the Account is used to set the interest rate on an approved loan at the time that the loan proceeds are disbursed to charter schools.
- (k) "Program" shall mean the Charter School Revolving Loan Fund Program.

- (l) "Region One" shall consist of the following counties: Alpine, Amador, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba.
- (m) "Region Two" shall consist of the following counties: Alameda, Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Stanislaus, Tulare, and Tuolumne.
- (n) "Region Three" shall consist of the following counties: Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.
- (o) "Region Four" shall consist of the following counties: Imperial, Orange, Riverside, and San Diego.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

Section 10170.18. Eligible Applicant.

An Applicant shall be eligible to apply for a loan if the following conditions are met:

- (a) The Application is submitted by a Charter School or by a Chartering Authority.
- (b) The Charter School is established pursuant to Education Code section 47600 et seq.
- (c) An approved charter has been awarded, is in place, and is current at the time of Application, or in the case of a first year Charter School, a charter petition has been submitted for approval to the Chartering Authority and evidence, such as a copy of the charter petition, is submitted that the school anticipates beginning operations in the fiscal year for which an Application is submitted.
- (d) If the Applicant is a Charter School applying on its own behalf, the Charter School shall be an Incorporated Charter School.
- (e) The Charter School is not a conversion from an existing public school.
- (f) The Charter School has not had its charter renewed.
- (g) The Charter School has no material legal issues.
- (h) The Charter School is in compliance with all other program administered by the Authority.
- (i) The Charter School is in good standing with its chartering authorizer and in compliance with the terms of its charter.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

Section 10170.19. Application Content and Submission.

Completed Applications and all attachments shall be submitted in duplicate to the Authority and shall include all of the following items:

- (a) Application (CSFA 14-01; dated January 8, 2014). The Application shall include identifying information and other information required by the Authority, including information regarding the Applicant, loan amount requested, copy of the Articles of Incorporation, and the Charter School's legal status.
- (b) Description of how an award of loan funds will be used.
- (c) Copy of current charter agreement and verification of the expiration date.
- (d) Supporting Charter School financial information, including:

- (1) Audited financial statements, if available;
 - (2) An adopted budget for the first fiscal year for which the Applicant is applying;
 - (3) Multi-year budget projections for at least the four fiscal years beyond the first fiscal year for which the Applicant is applying, including written budget assumptions;
 - (4) Most recent business plan and/or strategic plan for at least the next four academic years;
 - (5) List of the charter school's board of directors including their occupations, cities of residence, and terms of office;
 - (6) Resumes of key staff members (e.g., Chief Executive Officer, President, Operations Manager, Chief Financial Officer, Principal, etc.) of the charter school.
 - (7) Operational agreement or memorandum of understanding between the charter school and the chartering authority;
 - (8) Historical, current, and projected enrollment and attendance, by grade level, for the next five years;
 - (9) Targeted student population and student year-to-year retention rates for all years of operation of the charter school;
 - (10) A listing of historical, current, and anticipated future funding through private contributions;
 - (11) List the total amounts, annual amounts, interest rates, and maturity dates of all existing and anticipated short- and long-term debt obligations of the applicant or charter school; and
 - (12) List and copy of all material contracts, including, but not limited to, management, support services, transportation contracts, and any such anticipated contracts involving use of space or equipment to be financed with Program funds.
- (e) Applications for loan funds will be available as described below.
- (1) For the 2013-14 school year, Applications will be accepted until 5:00 p.m. on February 24, 2014.
 - (2) For subsequent funding rounds, beginning with the 2014-15 school year, information regarding the Application will be made available on the Authority's website no later than December of each year.
 - (3) One printed Application with original signatures (and one duplicate Application) must be received by the Authority, during regular business hours prior to the final filing date and time. Applications shall be delivered to the Authority by mail or hand-delivery. The Authority will not accept emailed or faxed Applications. Applications received after the final filing date and time will not be accepted for review.
 - (4) A Charter School may receive multiple loans. In no instance may a Charter School receive more than \$250,000 in Program loans over the lifetime of the Charter School.
 - (5) Organizations operating more than one Charter School, as identified by separate CDS codes, must submit a separate Application for each Charter School with a separate CDS code for which a loan award is sought.

Note: Authority cited: Section 41365, Education Code.
Reference: Sections 41365 and 41366.5, Education Code

Section 10170.20. Application Review and Evaluation/Underwriting Criteria

- (a) The Authority will evaluate and determine Program loans based on the following:
 - (1) The Applicant meets all Eligibility Criteria under Section 10170.18;
 - (2) The Applicants demonstrates the ability to repay the loan; and
 - (3) The Applicant demonstrates that use of loan funds will be strictly for supporting the operations and financing of the Charter School consistent with the intent of the charter pursuant to Education Code Section 47605.
- (b) In addition, the Authority may evaluate the following criteria as it relates to the Application:
 - (1) Soundness of the Charter School's business plan, and the expertise of key management at the Charter School;
 - (2) Availability to the Charter School of other sources of funds;
 - (3) Impact of receipt of Program funds received on the Charter School's receipt of other private and public financing; and
 - (4) In the Authority's evaluation of supporting financial information submitted pursuant to Section 10170.19(d), the Authority shall consider the reasonableness of projected financial performance and corresponding assumptions based on current and historical performance and the charter school's business and/or strategic plans. The Authority may consider current and historical performance, including cash flow, major revenues, degree of reliance on loans and fundraising, enrollment trends, student performance data, projected average daily attendance, expenses, and debt service coverage, if applicable.
- (c) Priority shall be given to new Charter Schools for start-up costs that are fairly representative of Region One, Region Two, Region Three and Region Four of the State.
- (d) If there are insufficient funds available during an Application cycle, following the first priority of funding for new Charter Schools in the various regions of the State, the Authority shall award loans based on the percentage of students eligible for free or reduced price meals in the attendance area for the grade-level equivalent district-operated school. The Authority will rely on free and reduced price meal data as reported by the California Department of Education.

Note: Authority cited: Section 41365, Education Code.
Reference: Sections 41365 and 41366.5, Education Code.

Section 10170.21. Loan Amount and Repayment Terms.

- (a) The Authority shall establish a loan amount and repayment period, for an approved loan, which shall be memorialized in a written Loan Agreement and subject to an interest rate equal to the interest rate earned in the Pooled Money Investment Account as of the date of loan disbursement.
- (b) The Authority shall consider the term of the charter as well as the amount of the loan in establishing the repayment period.

- (c) In no instance shall a Program loan, or combination of Program loans for a Charter School, exceed \$250,000.
- (d) The repayment amount for each fiscal year following the issuance of the loan shall be based on equal annual payments, including principal and interest, over the number of years determined by the Authority.
- (e) In no event shall the repayment period on a Program loan exceed five years.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

Section 10170.22. Loan Agreements.

- (a) Prior to the issuance of each loan award, the Authority shall require each Loan Recipient to agree to terms and conditions set forth in a written Loan Agreement, which shall specify the loan amount, repayment period, covenants, and requirements in the event of inability to make payments or default.
- (b) The Loan Agreement shall require each Loan Recipient to agree to each of the following:
 - (1) Having its loan payments intercepted and offset at the state level, pursuant to Sections 41365(f) of the Education Code;
 - (2) Defending, indemnifying and holding harmless the Authority and the State, and all officers, trustees, agents, and employees of the same, from and against any and all claims, losses, costs, damages, or liability of any kind or nature, whether direct or indirect, arising from or relating to the Program;
 - (3) Complying with any audit provisions as may be required by the Authority, State Controller, or the Bureau of State Audits;
 - (4) Maintaining a valid charter and operating a Charter School continuously throughout the term of the loan. The Authority reserves the right to contact the Chartering Authority directly seeking written verification that the Loan Recipient is in good standing and in compliance with the terms of its charter;
 - (5) Notifying the Authority, within 30 days, of any material changes to its financial condition or that of the Charter School that occur between the time of Application and the end of the loan period;
 - (6) Ensuring that the expenditure of all loan funds is consistent with the intent of the Program and solely for the purpose of supporting the operations and financing of the Charter School; and
 - (7) Notifying the Authority within 30 days of a Loan Recipient's determination that all or a portion of loan funds are no longer needed for their intended use, as identified in the Application, and providing remittance to the Authority of all such funds that have already been disbursed.
 - (8) Such other terms and conditions as agreed upon by the Authority and the Charter School.
- (c) The Loan Agreement shall include a loan repayment and offset schedule.
- (d) In the case of insufficient funds to make the annual payment during a fiscal year, any available funds will be offset as scheduled and any deficit / amount owed will be added to the next scheduled apportionment offset in the same fiscal year.
 - (1) If the total of insufficient funds is not offset by the end of the fiscal year, then the deficit / amount owed will be invoiced to the Charter School and will be repaid within 60 days.

- (2) If a Charter School fails to open within the next fiscal year after receiving their loan disbursement, the Charter School will be invoiced for the full loan amount and must be repaid within 60 days, unless granted an extension.
- (e) The Authority shall set up accounts receivable for any Charter School that is past due on loan repayment or that has defaulted on repayment of a Loan.
- (f) In the event the Charter School is unable to repay the loan and the Charter School is operated by an educational management organization or chartering authority, the Authority shall require the educational management organization or chartering authority to make annual payments or repay the total outstanding loan amount.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

Section 10170.23. Internal Controls, Audits and Conflicts of Interest.

- (a) The State may conduct or require periodic audits to ensure Loan Recipients are using funds consistent with the requirements and the terms of the Program, the related financing program, if applicable, and this Article as approved. Loan Recipients shall retain all documentation and financial data necessary to substantiate the purposes for which the financing funds were spent for a period of five years after repayment of the loan.
- (b) Loan Recipients may be required to routinely verify continued eligibility.
- (c) The Authority reserves the right to conduct site visits to any charter school facility or project applying for or receiving a loan pursuant to this Article.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.

Section 10170.24. Funding Contingency.

- (a) Funding for this Program in each Fiscal Year is contingent upon the availability of funds in the Charter School Revolving Loan Fund.

Note: Authority cited: Section 41365, Education Code.

Reference: Sections 41365 and 41366.5, Education Code.